

In the Matter of) Arizona Supreme Court
) No. R-12-0030
PETITION TO AMEND THE)
RULES OF PROCEDURE FOR JUDICIAL)
REVIEW OF ADMINISTRATIVE)
DECISIONS)
)
_____) **FILED 12/10/2012**

REBECCA WHITE BERCH
Chief Justice

Arizona Supreme Court No. R-12-0030
Page 2 of 5

TO:
Rule 28 Distribution
David K Byers
Camila Alarcon
Gregory Y Harris

ATTACHMENT*

RULES OF PROCEDURE FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

Rule 1. Scope of Rules

[No change in text]

Rule 2. Time Enlargement

Upon motion for good cause shown or upon stipulation, the superior court may extend any period of time prescribed either by these rules or by title 12, chapter 7, article 6, A.R.S., including the time for filing an ~~answer~~ notice of appearance or the record on review, but it may not extend the time for the filing of a ~~complaint~~ notice of appeal pursuant to A.R.S. § 12-904.

Rule 3. Stay of an Administrative Decision

(a)-(b) [No change in text]

(c) **Judgment Against Surety.** By entering into a bond given pursuant to this rule, the surety submits itself to the jurisdiction of the ~~trial~~ superior court to the same extent and under the same conditions as set forth in Rule 65.1, Ariz. R. Civ. Proc.

Rule 4. Administrative Appeal; When and How Taken

~~Plaintiff's complaint~~ Appellant's notice of appeal shall be filed within the time required by A.R.S. § 12-904 or other applicable law and shall be captioned "~~Complaint-~~ Notice of Appeal for Judicial Review of Administrative Decision." The ~~complaint~~ notice of appeal shall conform to the requirements of A.R.S. §§ 12-904, 12-905, 12-909 and any other applicable law.

* Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Rule 5. Record on Review

[No change in text]

Rule 6. Appellate Briefs; When Filed

(a) Time for Filing Appellate Briefs. The opening brief of ~~plaintiff~~ appellant shall be filed within forty-five days after service of the Certification of Record on Review. The brief of ~~defendant~~ appellee shall be filed within forty-five days after service of ~~plaintiff's~~ appellant's brief. Within twenty days after service of ~~defendant's~~ appellee's brief, ~~plaintiff~~ appellant may file a reply brief.

(b) Consequences of Failure to Timely File Appellate Brief. If ~~plaintiff~~ appellant does not timely file an opening brief, the court, upon notice, may dismiss the ~~complaint~~ notice of appeal. If ~~defendant~~ appellee does not timely file a responsive brief, the appeal may be deemed submitted for a decision upon ~~plaintiff's~~ appellant's opening brief.

Rule 7. Appellate Briefs; Contents

The parties shall file appellate briefs in the following format:

(a) Plaintiff's Appellant's Opening Brief. The opening brief of ~~plaintiff~~ appellant shall concisely and clearly set forth:

1.-3. [No change in text]

4. An argument, which shall contain the contentions of ~~defendant~~ appellee with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record on review relied upon. The argument may include a summary.

5.-6. [No change in text]

(b) Defendant's Appellee's Answering Brief. The answering brief of ~~defendant~~ appellee shall conform to the requirements of subparagraph (a), except that a statement of the case, a statement of the facts or a statement of the issues need not be included unless ~~defendant~~ appellee finds the statements of ~~plaintiff~~ appellant to be insufficient or incorrect.

(c) Plaintiff's Appellant's Reply Brief. ~~Plaintiff~~ Appellant may file a reply brief. The reply shall be confined strictly to rebuttal of points urged in the ~~defendant's~~

appellee's brief.

Rule 8. Appellate Briefs; Length

~~Plaintiff's~~ Appellant's opening brief and ~~defendant's~~ appellee's answering brief each shall not exceed thirty-five typewritten pages, exclusive of pages containing any table of contents, table of authorities, or appendix. Except by permission of the court, ~~plaintiff's~~ appellee's reply brief shall not exceed fifteen typewritten pages.

Rule 9. Oral Argument

[No change in text]

Rule 10. Admission of New or Additional Evidence

Any party seeking the introduction of new or additional evidence pursuant to the exceptions contained in A.R.S. § 12-910(A), shall file, prior to the time for filing ~~plaintiff's~~ appellee's opening brief, a motion identifying the evidence sought to be admitted and setting forth the appropriate legal authority in support of its admission. The moving party shall also address the application of A.R.S. § 12-911(A)(7) to the party's motion. Any party opposing the motion may file a response thereto. The filing of a motion under this rule shall not extend the time for filing briefs as set forth in Rule 6 of these rules.

Rule 11. Trial De Novo

A party who has demanded a trial de novo in the ~~complaint~~ notice of appeal or ~~answer~~ motion pursuant to A.R.S. § 12-910(B); shall file, prior to the time for filing the opening appellate brief, a motion explaining the need for a trial de novo with citation to legal authority supporting the demand. Any party opposing the motion may file a response thereto.

Rules 12.-15.

[No change in text]